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Supreme Court, U.S.
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NO. 02-1354

IN THE
SUPREME COURT OF THE UNITED STATES

CHRISTOPHER LEE JOHNSON,
Involuntary Plaintiff, Pro Se and
VERONICA MOODY JOHNSON,
Plaintiff, Pro Se,

Petitioners,

v.

CITY OF CHESAPEAKE, ET AL.,

Respondents.

Companion Case, United States Court Case No. 02-694 Christopher Lee Johnson and Veronica Moody Johnson, Pro Se, Petitioners, vs. Emerald Greens Property Owners Association Board of Directors, et al., Respondents vs. Emerald Greens Property Owners Association, Respondents.

Former appeal Veronica Moody Johnson, Pro se, v. City of Chesapeake, et al, FCCA Case No. 99-2256

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED COURT OF APPEALS FOURTH CIRCUIT

REPLY TO BRIEF IN OPPOSITION

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6 pp

ARGUMENT

The District Court activated this case based on the fact that the state court proceeding in the Circuit Court of the City of Chesapeake had ended in dismissal. The stay was lifted pursuant to the order of the Fourth Circuit Court of Appeals, Case No. 99-2256. (See App. G) **That petitioner abandoned the state court proceeding is a misrepresentation.**

Vagueness of 14-201(B) of the City Code of Chesapeake was presented and outlined below in four pages in the evidence attached to petitioner's sworn complaint as Exhibit 8, U.S.D.C. Dkt. No. 53. Vagueness was cited from the outset in this case and is **NOT** introduced for the first time in this appeal. The vagueness issue is cited in the Fourth Circuit Court of Appeals case below, No. 01-2438, as well at page 4, paragraph 4; page 5, paragraph B; page 9, paragraphs O and P; page 10, paragraphs Q and R; and page 13, paragraph EE.

There are two appeals to the Fourth Circuit Court of Appeals in this case. The first one Case No. 99-2256 dealt with respondent's motion to abstain. This Fourth Circuit Court of Appeals case is the case that is reopened. Now before this Supreme Court with Veronica Moody Johnson's husband, involuntary plaintiff, Christopher Lee Johnson added by order of the court on motion of respondent.

There is no basis for respondent's claim of no property interest in this case. Property interest is why the U.S.D.C. claimed it added involuntary plaintiff, Christopher Lee Johnson.

Respondent is refusing to allow petitioners a special exception to fence height on a corner lot specifically provided for within the City Code for the back section of a **one foot by eight foot top portion** of a five foot two inch brick fence which is 95 percent see-through, overall, on three sides, the major portion of the fence is an 18-inch tall brick knee wall (U.S.D.C. Dkt. No. 53, Ex. Nos, 15-18, photos) and is to be completed with wrought iron in between the brick columns. The City has denied petitioners maliciously, arbitrarily, and capriciously to cater to the all white Board of Directors of petitioner's homeowners association, who gave petitioners written approval for the fence height they opposed at all three administrative proceedings, who admitted on the record that they had ulterior motives.

The January 27, 1999 Planning Commission meeting was a 4 to 4 tie vote. The absent commissioner, Ed Hall, admitted in his deposition (which is part of the record) that he is a friend of Rick Matthews, an attorney who is a Board member of petitioner's homeowners association. (See U.S. Sup. Ct. companion case, No. 02-694.) In addition, Commissioner Ed Hall admitted in his deposition that his homeowners association, Las Gaviotas, had previously employed Rick Matthews, (defendant in

companion case) to represent his homeowners association before the Chesapeake Planning Commission previously. Ed Hall, Planning Commissioner, admitted in his sworn deposition that he was a board member at the time Rick Matthews represented Las Gaviotas Homeowners Association before the Planning Commission. **This is conflict.**

The strategic absence of Ed Hall at this first of three public hearings wherein votes were taken on petitioner's special exception gave the respondents the opportunity to get a "read" on how the Planning Commission was going to vote on petitioner's special exception and provided the opportunity for petitioner's homeowners association to conduct a campaign for members who voted to support petitioner's special exception at the January 27, 1999 meeting to change their votes and vote oppositely at the next hearing because Hall had to vote in support to make sure no issue arose with regard to his personal dealings with Matthews, (defendant in U.S. Sup. Ct. companion case No. 02-694.)

This is exactly what happened. Commissioners Radford and Carroll in an admitted first time or rare occurrence reversed their votes from support to opposition against petitioner's special exception at the second Planning Commission meeting of February 24, 1999, but could not cite one fact which had changed to justify switching from support to denial.

Respondent agrees page 2, paragraph 2 in its response that "after the dismissal of her state case Ms. Johnson filed a motion in the Federal District Court to reopen the stayed federal suit which was granted on October 4, 2000." **This was granted only because the state court proceeding had been dismissed, NOT ABANDONDED AS RESPONDENT MISREPRESENTS TO THIS COURT.** The stay was lifted pursuant to Fourth Circuit Court of Appeals order. (See App. G of this petition.)

Petitioner's appeal of the order of August 10, 2001, Petitioner's Exhibit D, dismissing certain of petitioner's claims was **NOT** dismissed by the Fourth Circuit Court of Appeals, **per se**, but was voluntarily withdrawn without opposition by respondents because the district court filed an order that the August 10, 2001 order could **NOT** be appealed until the end of this case in that there are no **interlocutory** appeals in cases such as this, which is a matter of law in federal court. Respondents have misstated and distorted the facts here.

With regard to Supreme Court Case No. 02-694 being a companion case to this case, it is, and petitioners alleged conspiracy between the parties in this case and the companion case to deny petitioner's special exception is the basis as the facts in the record reflect.

CONCLUSION

The Civil Rights Act of 1866, Section 10,

states in part ... "a final appeal may be taken to the Supreme Court of the United States."

Petitioners are pro se and their pleadings should not be held to the same standards of a sophisticated, trained attorney, as a matter of law. Petitioners specifically concede that equal justice dictates they get no special treatment. **The petitioners in this case merely seek fundamental fairness**. The record and this petition leave **no doubt whatsoever** that petitioner 's special exception was arbitrarily and capriciously denied and that they are entitled to a trial by jury by the Constitution of the United States.

Respondents specifically made no effort in their response to even **try** to refute this irrefutable evidence.

To deny certiorari in this case is to put politics over the civil rights guaranteed by the Constitution of this great nation. This case goes to the very heart of whether America truly is the world's poster child for human rights (civil rights.) Are we?

Respectfully submitted,

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